

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

MICHAEL THOMAS HOLMAN
Plaintiff

v.

CITY OF NEWYORK and
NYC MEDIA GROUP
Defendants

Civil Action No.1:07-cv-09684 SAS

(Jury Demanded)

FIRST AMENDED COMPLAINT FOR COPYRIGHT INFRINGEMENT

Parties

1. Plaintiff Michael Thomas Holman (“Plaintiff”) is a resident of New York City, New York.

2. Defendant City of New York is a municipality located within this district.

3. Defendant NYC Media Group is a subsidiary of the City of New York's Department of Information Technology and Telecommunications. NYC Media Group owns and operates NYCTV, a group of broadcast and cable channels operating in New York City.

Jurisdiction and Venue

4. This Court has jurisdiction over this action because it concerns a claim for copyright infringement under the Copyright Act, 17 U.S.C. § 101, et seq.

5. Venue is founded under 28 U.S.C. §§ 1391 and 1400(a) because Defendants and their agents may be found and do business within the Southern District of New York.

FACTS

6. Plaintiff is a renowned filmmaker, writer, director and producer. Plaintiff has made numerous motion pictures documenting the origins of hip hop music, beginning in the 1970's. Plaintiff derives substantial income from the licensing of his films, television programs and music videos to other distribution entities, including to television programs, networks and production companies.

7. Plaintiff has invested substantial sums of money, as well as time, effort and creative talent, to develop and produce motion pictures and television programs featuring the footage he has shot, which incorporate material that he owns.

8. Plaintiff is well known as a source of video footage on the origins of hip hop music, and television and film entities that require such footage frequently contact Plaintiff to license such footage from him.

9. In 1981, Plaintiff shot footage for a motion picture that he developed called "Catch a Beat."

10. "Catch a Beat" contains material wholly original with Plaintiff that is copyrightable subject matter under the laws of the United States.

11. In 1994, Plaintiff applied for and received a Certificate of Registration for "Catch a Beat" from the Register of Copyrights, Registration No. PA 713-035. A true and correct copy of this Certificate is attached hereto as Exhibit A.

12. In 1981, Plaintiff shot footage for a motion picture that he developed called "Graffiti Rock." Plaintiff also served as the onscreen host of "Graffiti Rock."

13. "Graffiti Rock" contains material wholly original with Plaintiff that is copyrightable subject matter under the laws of the United States.

14. In 1994, Plaintiff applied for and received a Certificate of Registration for “Graffiti Rock” from the Register of Copyrights, Registration No. PA 713-034. A true and correct copy of this Certificate is attached hereto as Exhibit B.

15. In 1982, Plaintiff shot footage for a motion picture that he developed named “TV New York.”

16. “TV New York” contains material wholly original with Plaintiff that is copyrightable subject matter under the laws of the United States.

17. In 1994, Plaintiff applied for and received a U.S. Copyright Registration for “TV New York”, Reg. No. PA 713-033. A true and correct copy of this certificate is attached hereto as Exhibit C.

18. Collectively, “Catch a Beat,” “Graffiti Rock,” and “TV New York,” are referred to herein as the “Holman Works”.

19. Plaintiff is currently and at all relevant times has been the sole proprietor in all right, title and interest in and to the copyright in the Holman Works. Plaintiff has produced and distributed the Holman Works in strict conformity with the provisions of the Copyright Act and all other laws governing copyright.

20. In or about May 2007, Plaintiff became aware that Defendants’ television program “The Bridge” was using footage from Plaintiff’s copyrighted motion picture, “Catch a Beat,” as part of the design and introduction of every segment in every episode of “The Bridge.” Defendants were also displaying footage from Plaintiff’s copyrighted motion picture, “Catch a Beat”, on their website, www.nyctv.gov.

21. In or about May 2007, Plaintiff learned that Defendants also used footage from Plaintiff's copyrighted motion picture "Graffiti Rock" in an episode of "The Bridge" featuring Afrika Bambaataa.

22. Plaintiff is informed and believes and based thereon alleges that Defendants used Plaintiff's copyrighted footage since at least 2005.

23. Plaintiff never granted Defendants permission to use the copyrighted footage from "Catch a Beat" or "Graffiti Rock."

24. On or about June 18, 2007, Plaintiff sent a letter to Defendants, informing them that they were infringing Plaintiff's copyrights and demanding that Defendants cease and desist from such infringing actions. Despite receiving and acknowledging Plaintiff's letter, Defendants continued to use Plaintiff's footage without permission through at least August 2007.

25. In December, 2007, Defendants repeatedly showed excerpts from "TV New York" in Defendants' television program "Kela on the Karpet." Defendants did not seek permission from Plaintiff to use the footage from "TV New York." Plaintiff is informed and believes that Defendants ran the segment of "Kela on the Karpet" multiple times.

26. Plaintiff never granted Defendants permission to use his copyrighted footage from "TV New York."

CLAIM FOR COPYRIGHT INFRINGEMENT

27. Plaintiff realleges and incorporates herein by this reference each and every allegation contained in paragraphs 1 through 26 as set forth hereinabove.

28. Defendants knowingly copied Plaintiff's copyright footage from the Holman Works, and distributed such copyrighted footage to the public.

29. Plaintiff is informed and believes and based thereon alleges that Defendants have infringed the Holman Works since at least 2005.

30. Defendants' conduct in continuing to infringe the Holman Works after Plaintiff notified Defendants in writing that they were infringing the Holman Works makes Defendants' continuing infringement willful.

31. The natural, probable and foreseeable result of Defendants' wrongful conduct has been and will continue to be to deprive Plaintiff of the benefits of selling and licensing the Holman Works, to deprive Plaintiff of goodwill, and to injure Plaintiff's relations with present and prospective customers.

32. By their actions, Defendants have infringed and will continue to infringe Plaintiff's copyrights in and relating to the Holman Works by producing, distributing and placing into the market television programs and other entertainment products that include direct copies of Plaintiff's copyrighted Holman Works.

33. Plaintiff is further entitled to recover from Defendants the damages, including attorney's fees, it has sustained and will sustain, and any gains, profits and advantages obtained by Defendants as result of Defendants' acts of infringement alleged above. At present, Plaintiff cannot fully determine the amount of such damages, gains, profits and advantages.

34. Because Defendants' conduct was willful, Plaintiff is further entitled to an award of statutory damages pursuant to 17 U.S.C. 504(c)(2).

PRAYER FOR RELIEF

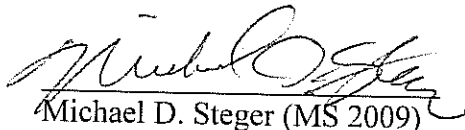
WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

1. That the Court find that Defendants have infringed Plaintiff's copyrights in the Holman Works;
2. For damages according to proof, including any profits attributable to Defendants' infringements of Plaintiff's copyrights;
3. In the alternative, for statutory damages pursuant to 17 U.S.C. § 504(c);
4. For an award of Plaintiff's costs of suit, including attorneys' fees pursuant to 17 U.S.C. § 505;
5. For such other relief as the Court deems proper.

JURY DEMANDED

Plaintiff hereby demands a jury on all issues triable by a jury.

Dated: March 11, 2008



Michael D. Steger (MS 2009)
Law Offices of Michael D. Steger, PC
1325 Sixth Avenue, 27th Floor
New York, NY 10019
(212) 956-9393
(845) 689-2155 (fax)
Attorney for Plaintiff MICHAEL THOMAS
HOLMAN

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of March 2008, I served a true and correct copy of Plaintiff's First Amended Complaint electronically upon:

Gerald E. Singleton
The City of New York
Law Department
100 Church Street
New York, NY 10007
gsinglet@law.nyc.gov


Michael D. Steger

CERTIFICATE OF REGISTRATION

UNITED STATES COPYRIGHT OFFICE



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Barbara Ringer
ACTING REGISTER OF COPYRIGHTS
United States of America

PA 713-035



PAU
EFFECTIVE DATE OF REGISTRATION

JUL 19 1994

Month Day Year

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

1 TITLE OF THIS WORK ▼

Catch a Beat

PREVIOUS OR ALTERNATIVE TITLES ▼

NATURE OF THIS WORK ▼ See instructions

motion picture

2 NAME OF AUTHOR ▼

a Michael Holman

DATES OF BIRTH AND DEATH
Year Born ▼ Year Died ▼
1955

Was this contribution to the work a
"work made for hire"?
☐ Yes
☒ No

AUTHOR'S NATIONALITY OR DOMICILE
Name of Country U.S.A.
OR { Citizen of ►
Domiciled in ►

WAS THIS AUTHOR'S CONTRIBUTION TO
THE WORK
Anonymous? ☐ Yes ☒ No
Pseudonymous? ☐ Yes ☒ No
If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Briefly describe nature of the material created by this author in which copyright is claimed. ▼
entire audiovisual work

NAME OF AUTHOR ▼

DATES OF BIRTH AND DEATH
Year Born ▼ Year Died ▼

Was this contribution to the work a
"work made for hire"?
☐ Yes
☐ No

AUTHOR'S NATIONALITY OR DOMICILE
Name of Country
OR { Citizen of ►
Domiciled in ►

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If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Briefly describe nature of the material created by this author in which copyright is claimed. ▼

NAME OF AUTHOR ▼

DATES OF BIRTH AND DEATH
Year Born ▼ Year Died ▼

Was this contribution to the work a
"work made for hire"?
☐ Yes
☐ No

AUTHOR'S NATIONALITY OR DOMICILE
Name of Country
OR { Citizen of ►
Domiciled in ►

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Pseudonymous? ☐ Yes ☐ No
If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Briefly describe nature of the material created by this author in which copyright is claimed. ▼

3 YEAR IN WHICH CREATION OF THIS
WORK WAS COMPLETED This information
1981 must be given
in all cases.

DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK
Complete this information ONLY if this work
has been published. Month ► December Day ► 31 Year ► 1981
U.S.A. Nation

4 COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2. ▼

Michael Holman
12415 Eastbourne Drive
Silver Spring, MD 20904

APPLICATION RECEIVED

JUL 19 1994

ONE DEPOSIT RECEIVED

JUL 19 1994

TWO DEPOSITS RECEIVED

REMITTANCE NUMBER AND DATE

TRANSFER If the claimant(s) named here in space 4 are different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright. ▼

MORE ON BACK ► Complete all applicable spaces (numbers 5-9) on the reverse side of this page.
See detailed instructions. Sign the form at line 8

DO NOT WRITE HERE

Page 1 of 2 pages

EXHIBIT A

CHECKED BY

CORRESPONDENCE

Yes

FOR
COPYRIGHT
OFFICE
USE
ONLY

* Added by C.O., authority Nancy Mertzell
in telephone call 22 July 1994.

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

PREVIOUS REGISTRATION Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?

☐ Yes ☒ No If your answer is "Yes," why is another registration being sought? (Check appropriate box) ▼

☐ This is the first published edition of a work previously registered in unpublished form.

☐ This is the first application submitted by this author as copyright claimant.

☐ This is a changed version of the work, as shown by space 6 on this application.

If your answer is "Yes," give: Previous Registration Number ▼

Year of Registration ▼

DERIVATIVE WORK OR COMPILATION Complete both space 6a & 6b for a derivative work; complete only 6b for a compilation.

a. **Preexisting Material** Identify any preexisting work or works that this work is based on or incorporates. ▼

See instructions
before completing
this space

b. **Material Added to This Work** Give a brief, general statement of the material that has been added to this work and in which copyright is claimed. ▼

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account.

Name ▼ Account Number ▼

CORRESPONDENCE Give name and address to which correspondence about this application should be sent. Name/Address/Apt./City/State/Zip ▼

Nancy J. Mertzell, Esq.

Abelman, Frayne & Schwab

708 Third Avenue

New York, NY 10017-4141

Area Code & Telephone Number ▶ (212) 949-9022 FAX: (212) 949-9190

Be sure to
give your
daytime phone
number

CERTIFICATION* I, the undersigned, hereby certify that I am the

check only one ▼

author

other copyright claimant

owner of exclusive right(s)

authorized agent of Michael Holman

Name of author or other copyright claimant, or owner of exclusive right(s) ▲

the work identified in this application and that the statements made
me in this application are correct to the best of my knowledge.

signed or printed name and date ▼ If this application gives a date of publication in space 3, do not sign and submit it before that date.

Nancy J. Mertzell

date ▶ July 18, 1994

Handwritten signature (X) ▼

Nancy J. Mertzell

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Name ▼ Nancy J. Mertzell, Esq.
Abelman, Frayne & Schwab

Number Street/Apartment Number ▼
708 Third Avenue

City/State/ZIP ▼
New York, NY 10017-4141

YOU MUST:

- Complete all necessary spaces
- Sign your application in space 8

**SEND ALL 3 ELEMENTS
IN THE SAME PACKAGE:**

1. Application form
2. Non-refundable ~~and~~ filing fee \$20
in check or money order
payable to Register of Copyrights
3. Deposit material

MAIL TO:

Register of Copyrights
Library of Congress
Washington, D.C. 20559

J.S.C. § 506(e) Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 409, or in any written statement filed in
connection with the application, shall be fined not more than \$2,500.

ber 1990—30,000



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Barbara Ringer
ACTING REGISTER OF COPYRIGHTS
United States of America

PA 713-034



PA PAU
EFFECTIVE DATE OF REGISTRATION

JUL 19 1994

Month Day Year

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

TITLE OF THIS WORK ▼

Graffiti Rock

PREVIOUS OR ALTERNATIVE TITLES ▼

NATURE OF THIS WORK ▼ See instructions

motion picture

NAME OF AUTHOR ▼

a Michael Holman

DATES OF BIRTH AND DEATH

Year Born ▼ Year Died ▼

1955

Was this contribution to the work a
"work made for hire"? ☐ Yes ☒ No

AUTHOR'S NATIONALITY OR DOMICILE

Name of Country U.S.A.
OR { Citizen of ►
Domiciled in ►

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? ☐ Yes ☒ No If the answer to either of these questions is "Yes," see detailed instructions.
Pseudonymous? ☐ Yes ☒ No

NATURE OF AUTHORSHIP Briefly describe nature of the material created by this author in which copyright is claimed. ▼
entire audiovisual work

NAME OF AUTHOR ▼

DATES OF BIRTH AND DEATH

Year Born ▼ Year Died ▼

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Domiciled in ►

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Pseudonymous? ☐ Yes ☒ No

NATURE OF AUTHORSHIP Briefly describe nature of the material created by this author in which copyright is claimed. ▼

3 a YEAR IN WHICH CREATION OF THIS WORK WAS COMPLETED This information must be given in all cases.
1983 Year

DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK

Complete this information ONLY if this work has been published. Month ► September Day ► 30 Year ► 1983 U.S.A. Nation

4 b COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2. ▼

Michael Holman
12415 Eastbourne Drive
Silver Spring, MD 20904

APPLICATION RECEIVED

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REMITTANCE NUMBER AND DATE

TRANSFER If the claimant(s) named here in space 4 are different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright. ▼

MORE ON BACK ► • Complete all applicable spaces (numbers 5-9) on the reverse side of this page.
• See detailed instructions. • Sign the form at line 8.

DO NOT WRITE HERE

Page 1 of 2 page

EXHIBIT R

CHECKED BY

CORRESPONDENCE
YesFOR
COPYRIGHT
OFFICE
USE
ONLY

* Added by C.O., authority Nancy Mertz
in telephone call 22 July 1994.

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

PREVIOUS REGISTRATION Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?

☐ Yes ☒ No If your answer is "Yes," why is another registration being sought? (Check appropriate box) ▼

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☐ This is the first application submitted by this author as copyright claimant.

☐ This is a changed version of the work, as shown by space 6 on this application.

If your answer is "Yes," give: Previous Registration Number ▼

Year of Registration ▼

5

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6

See instructions
before completing
this space

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DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account.

Name ▼

Account Number ▼

7

CORRESPONDENCE Give name and address to which correspondence about this application should be sent. Name/Address/Apt/City/State/Zip ▼

Nancy J. Mertz, Esq.
Abelman, Frayne & Schwab
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Area Code & Telephone Number ▶ (212) 949-9022 FAX: (212) 949-9190

Be sure to
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daytime phone
number.

8

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Name of author or other copyright claimant, or owner of exclusive right(s) ▲

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Nancy J. Mertz

date ▶ July 18, 1994

Handwritten signature (X) ▼

Nancy J. Mertz

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Name ▼ Nancy J. Mertz, Esq.
Abelman, Frayne & Schwab
Number/Street/Apartment Number ▼
708 Third Avenue
City/State/ZIP ▼
New York, NY 10017-4141

YOU MUST:

- Complete all necessary spaces
- Sign your application in space 8

SEND ALL 3 ELEMENTS
IN THE SAME PACKAGE:

1. Application form
2. Non-refundable \$20 filing fee in check or money order payable to Register of Copyrights
3. Deposit material

MAIL TO:

Register of Copyrights
Library of Congress
Washington, D.C. 20559

9

SECTION 506(e) Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 409, or in any written statement filed in connection with the application, shall be fined not more than \$2,500.

or 1990-30,000

CERTIFICATE OF REGISTRATION

Case 1:07-cv-09684-SAS

Document 13

Filed 03/13/2008

Page 12 of 13

UNITED STATES COPYRIGHT OFFICE



OFFICIAL SEAL

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Barbara Ringer

ACTING REGISTER OF COPYRIGHTS
United States of America

PA 713-033



PA

PAU

EFFECTIVE DATE OF REGISTRATION

JUL 19 1994

Month

Day

Year

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

TITLE OF THIS WORK ▼

T.V. New York

PREVIOUS OR ALTERNATIVE TITLES ▼

NATURE OF THIS WORK ▼ See instructions

motion picture

NAME OF AUTHOR ▼

a Michael Holman

DATES OF BIRTH AND DEATH

Year Born ▼

Year Died ▼

1955

Was this contribution to the work a "work made for hire"?
☐ Yes
☒ No

AUTHOR'S NATIONALITY OR DOMICILE

Name of Country

U.S.A.

OR { Citizen of ▶

Domiciled in ▶

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? ☐ Yes ☒ No

Pseudonymous? ☐ Yes ☒ No

If the answer to either of these questions "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Briefly describe nature of the material created by this author in which copyright is claimed. ▼
entire audiovisual work

NAME OF AUTHOR ▼

DATES OF BIRTH AND DEATH

Year Born ▼

Year Died ▼

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NATURE OF AUTHORSHIP Briefly describe nature of the material created by this author in which copyright is claimed. ▼

YEAR IN WHICH CREATION OF THIS WORK WAS COMPLETED

1982

Year

This information must be given in all cases.

DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK

Complete this information ONLY if this work has been published.

Month ▶

July

Day ▶

* 31

Year ▶

1982

Nat

COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2. ▼

Michael Holman

12415 Eastbourne Drive

Silver Spring, MD 20904

TRANSFER If the claimant(s) named here in space 4 are different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright. ▼

APPLICATION RECEIVED

JUL 19 1994

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JUL 19 1994

TWO DEPOSITS RECEIVED

REMITTANCE NUMBER AND DATE

MORE ON BACK ▶

- Complete all applicable spaces (numbers 5-9) on the reverse side of this page.
- See detailed instructions.
- Sign the form at line 8.

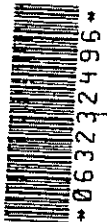
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Page 1 of 2 page

NOTE

Under the law,

0632232496



See instructions before completing this space

CHECKED BY

CORRESPONDENCE
YesFOR
COPYRIGHT
OFFICE
USE
ONLY

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in telephone call 22 July 1994.

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☐ This is the first application submitted by this author as copyright claimant.

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If your answer is "Yes," give: Previous Registration Number ▼

Year of Registration ▼

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b. Material Added to This Work Give a brief, general statement of the material that has been added to this work and in which copyright is claimed. ▼

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account.
Name ▼ Account Number ▼

CORRESPONDENCE Give name and address to which correspondence about this application should be sent. Name/Address/Apt./City/State/Zip ▼

Nancy J. Mertz, Esq.
Abelman, Frayne & Schwab
708 Third Avenue
New York, NY 10017-4141

Area Code & Telephone Number ▶ (212) 949-9022 FAX: (212) 949-9190

CERTIFICATION* I, the undersigned, hereby certify that I am the
check only one ▼

author

other copyright claimant

owner of exclusive right(s)

authorized agent of Michael Holman

Name of author or other copyright claimant, or owner of exclusive right(s) ▲

the work identified in this application and that the statements made
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Nancy J. Mertz

Handwritten signature (X) ▼

date ▶ July 18, 1994

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Name ▼ Nancy J. Mertz, Esq.
Abelman, Frayne & Schwab
Number Street/Apartment Number ▼ 708 Third Avenue
City/State/Zip ▼ New York, NY 10017-4141

YOU MUST:
• Complete all necessary spaces
• Sign your application in space 8

SEND ALL 3 ELEMENTS
IN THE SAME PACKAGE

1. Application form
2. Non-refundable \$12.00 filing fee
in check or money order
payable to Register of Copyrights
3. Deposit material

MAIL TO:
Register of Copyrights
Library of Congress
Washington, D.C. 20559

SC § 506(e) Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 409, or in any written statement filed in
connection with the application, shall be fined not more than \$2,500.

1990-30,000